

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

Steven D. Cozad and Lynn M. Cozad,

Civil No. 12-32 (DWF/JSM)

Plaintiffs,

v.

**ORDER ADOPTING REPORT  
AND RECOMMENDATION**

Litton Loan Servicing, LP; Popular Financial Services, LLC; Ocwen Financial Corporation; The Bank of New York Mellon f/k/a The Bank of New York as Trustee for the Benefit of Certificate Holders of Popular ABS, Inc.; Mortgage Pass Through Certificates Series 2006-E; Mortgage Electronic Registration Systems, Inc.; Washington County Sheriff Department; and Wilford, Geske & Cook, P.A.,

Defendants.

This matter is before the Court upon Plaintiffs Steven Cozad and Lynn M. Cozad's ("Plaintiffs") objections (Doc. No. 41) to Magistrate Judge Janie S. Mayeron's December 12, 2012 Report and Recommendation (Doc. No. 40) insofar as it recommends that: (1) Defendants Litton Loan Servicing, LP, Ocwen Loan Servicing, LLC, The Bank of New York Mellon f/k/a The Bank of New York, as Trustee, Mortgage Electronic Registration Systems, Inc. and Wilford, Geske & Cook, P.A.'s Motion to Dismiss be granted and that Plaintiffs' claims should be dismissed with prejudice; and (2) Defendant Washington County Sheriff Department's Amended Motion to Dismiss be granted and that the suit against the Washington County Sheriff Department be dismissed without prejudice. Defendant Washington County Sheriff Department filed a response to

Plaintiffs' objections on January 10, 2013. (Doc. No. 43.) Defendants Litton Loan Servicing, LP, Ocwen Loan Servicing, LLC, The Bank of New York Mellon f/k/a The Bank of New York, as trustee, Mortgage Electronic Registration Systems, Inc., and Wilford Geske & Cook, P.A. filed a response to Plaintiffs' objections on January 11, 2013. (Doc. No. 45.) Plaintiffs filed an "Amended Objection" on January 31, 2013. (Doc. No. 46.) Defendants Litton Loan Servicing, LP, Ocwen Loan Servicing, LLC, The Bank of New York Mellon f/k/a The Bank of New York, as Trustee, Mortgage Electronic Registration Systems, Inc., and Wilford Geske & Cook, P.A., filed a response to Plaintiffs' amended objection on February 14, 2013. (Doc. No. 49.)

The Court has conducted a *de novo* review of the record, including a review of the arguments and submissions of the parties, pursuant to 28 U.S.C. § 636(b)(1) and Local Rule 72.2(b). The factual background for the above-entitled matter is clearly and precisely set forth in the Report and Recommendation and is incorporated by reference for purposes of Plaintiffs' objections.

Plaintiffs object to the Report and Recommendation, claiming that the Magistrate Judge ignored critical material facts, incorrectly evaluated facts, and that without discovery, it is premature for the Court to make a ruling on Plaintiffs' claims. Plaintiffs also maintain that there was a verbal agreement to modify Plaintiffs' mortgage. However, as explained by the Magistrate Judge, any purported loan modification must be in writing under Minn. Stat. § 513.33. (Doc. No. 40 at 18.) Having carefully reviewed the record, the Court concludes that Plaintiffs' objections offer no basis for departure from the Report

and Recommendation and that Magistrate Judge Mayeron correctly recommended that Plaintiffs' claims be dismissed.

Based upon the *de novo* review of the record and all of the arguments and submissions of the parties, and the Court being otherwise duly advised in the premises, the Court hereby enters the following:

### **ORDER**

1. Plaintiffs Steven D. Cozad and Lynn M. Cozad's objections (Doc. No. [41]) and amended objections (Doc. No. [46]) to Magistrate Judge Janie S. Mayeron's December 12, 2012 Report and Recommendation are **OVERRULED**.

2. Magistrate Judge Janie S. Mayerson's December 12, 2012 Report and Recommendation (Doc. No. [40]) is **ADOPTED**.

3. Defendants Litton Loan Servicing, LP, Ocwen Loan Servicing, LLC, The Bank of New York Mellon f/k/a The Bank of New York, as Trustee, Mortgage Electronic Registration Systems, Inc. and Wilford, Geske & Cook, P.A.'s Motion to Dismiss (Doc. No. [21]) is **GRANTED**. Plaintiffs' claims against these Defendants are **DISMISSED WITH PREJUDICE**.

4. Defendant Washington County Sheriff Department's Amended Motion to Dismiss (Doc. No. [30]) is **GRANTED**. Plaintiffs' claims against the Washington County Sheriff Department are **DISMISSED WITHOUT PREJUDICE**.

**LET JUDGMENT BE ENTERED ACCORDINGLY**

Dated: March 14, 2013

s/Donovan W. Frank  
DONOVAN W. FRANK  
United States District Judge